IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No. 534 of 1996
In
SPECIAL CIVIL APPLICATION No. 6838 of 1987

For Approval and Signature:

HONOURABLE MR.JUSTICE A.M.KAPADIA
HONOURABLE MR.JUSTICE K.A.PUJ

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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AKHIL GUJARAT STATE PANCHAYAT PHARMACISTS & COMPOUNDERS FED - Appellant(s)
Versus
PHARMACY COUNCIL OF INDIA & 3 - Respondent(s)

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Appearance :
MR PV HATHI for Appellant(s) : 1,
MR DHAVAL G NANAVATI for Respondent(s) : 1,
MR. APURVA DAVE, AGP for Respondent(s) : 2 - 4.

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CORAM : HONOURABLE MR.JUSTICE A.M.KAPADIA

and

HONOURABLE MR.JUSTICE K.A.PUJ

Date : 18/04/2007

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE K.A.PUJ)

1. The present appellant / original petitioner has filed this appeal under Clause 15 of the Letters Patent challenging the order passed by the learned Single Judge on 12.3.1996 in Special Civil Application no. 6838 of 1987, whereby the learned Single Judge has dismissed the petition.
2. This petition has come up for hearing on 1.2.2007 and this Court has passed an order recording the statement of the learned AGP appearing for the State Government, stating that the matter is under consideration of the Government with regard to payment of higher pay scale to unqualified Compounders. After recording the said statement, the matter was adjourned only with a view to file reply giving details about the progress or the final decision taken by the government on the aforesaid subject.
3. Pursuant to the aforesaid order, an additional affidavit is filed by Mr. K.C.Mehta, Under Secretary, Health and Family Welfare Department. In para 2 of the said additional affidavit, it is stated that the report of the Pay Anomaly Committee is to be considered by the State Government and necessary decision on the pay anomaly and other matters raised by the appellant in the present LPA together with the other employees, is to be decided within the

time limit given by this Court in the above referred decision. In Special Civil Application no. 1384 of 1996 and other cognate matters, while disposing of the said petitions, the learned Single Judge of this Court has issued the direction to the State Government to consider the report submitted by the Pay Anomaly Committee as well as Sub-Committee and take an appropriate decision with regard to the pay anomaly and on all other questions, which have been raised in the said Special Civil Applications, as early as possible but not later than 3 months from the date of receipt of the said order. The State Government was further directed to communicate the decision to the respective petitioners within a period of 15 days thereafter. The State Government and the concerned departments were directed to strictly comply with the above directions. It was also made clear that the Court has not expressed any opinion on the merits in favour of either parties, and liberty was given to the aggrieved party to challenge the said decision by way of appropriate proceedings.

4. Having heard Mr. P.V.Hathi, the learned advocate appearing for the appellant, Mr. Dhaval G. Nanavati, the learned advocate appearing for the respondent no.1 and Mr. Apurva Dave, the learned AGP for the respondent nos. 2 to 4, we are of the view that, in view of the additional affidavit filed on behalf of the State

Government on 27.2.2007, the order of the learned Single Judge, which is under challenge in the present LPA, is modified. Accordingly, if the issues raised by the present appellant in this LPA, are taken into consideration by the report of the Committee, which is now before the State Government, the same should be decided within a period of 3 months from the date of receipt of the writ of this Court or certified copy of this order, whichever is earlier. Additional Affidavit-in-Reply makes it clear that the pay anomaly and other matters raised by the present appellant in the present LPA are referred to the said committee and they are pending for consideration and hence it is to be decided within three months. If these issues are not there, it is open for the present appellant to make representation ventilating his grievance, and the same should be decided by the Government within a period of three months from the date of receipt of the said representation.

5. With the aforesaid observations and directions, this LPA is disposed of accordingly, with no order as to costs.

6. In view of the disposal of the LPA, CA now does not survive, and it is accordingly disposed of.

(A.M.Kapadia,J)

(K.A.Puj,J)

Jayanti*